

REMARKS

The present Response addresses the Official Action of March 5, 2009. In view of the following, reconsideration of the Examiner's rejections and Notice of Allowance of all pending claims is respectfully requested.

Claims 1-81 are pending in the present application with claims 1-42 and 74-81 having been withdrawn. Accordingly, claims 43-73 were the subject of the March 5, 2009 action. Each of these claims stands rejected on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over various claims of U.S. Patent No. 6,685,711 issued to Axelson in view of U.S. Patent No. 6,285,902 issued to Kienzle, III et al.

Without comment on the legitimacy of this rejection, Applicants submit herewith a terminal disclaimer over Axelson obviating the rejection. As this was the only rejection made in the March 5, 2009 Action, it is firmly believed that all rejections have been met and that the present claims are in condition for allowance.

Applicants further note that this application claims priority to Provisional Application Serial No. 60/272,641 entitled Methods, Systems and Tools Used In Performing Femoral and Tibial Resection In Knee Surgery, filed February 28, 2001. The claim was made at filing and was clarified in the Supplemental Amendment filed September 23, 2003. A review of the Patent Office's PAIR website does not reflect this priority claim. Applicants request that the priority claim to Provisional Application No. 60/272,641 be accounted for.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicants' attorney at

(908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: June 4, 2009

Respectfully submitted,

By 
Scott E. Charney
Registration No.: 51,548
LERNER, DAVID, LITTENBERG,
KRUML HOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090
(908) 654-5000
Attorney for Applicants

1025417_1.DOC